

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

V.

9

ORDER

10
11
12

13
14
15
16
17
18

19

20
21
22
23
24
25
26
27

1 Here, Plaintiff has brought a claim alleging that Defendant made unsolicited, automated calls
2 to her using an artificial or prerecorded voice in violation of 47 U.S.C. § 227, the Telephone
3 Consumer Protection Act (TCPA). Concurrent to this litigation, the D.C. Circuit Court is
4 considering *ACA International*, a consolidated case involving challenges of the FCC’s current
5 interpretation of the TCPA from multiple Circuits Courts. At issue in *ACA International* is, *inter*
6 *alia*, the definition of an automatic telephone dialing system (ATDS). The D.C. Circuit’s ruling on
7 these questions will be binding in this and all other Circuits. See *GTE S., Inc. v. Morrison*, 199 F.3d
8 733, 743 (4th Cir. 1999).

9 Upon review of the parties’ briefs, the Court finds that the questions raised by *ACA*
10 *International* are central to the resolution of this case. Plaintiff argues that since her claim not only
11 alleges use of an ATDS but also an artificial or prerecorded voice, her claim can proceed
12 independently regardless of the outcome in *ACA International*. This may be true, but Plaintiff’s
13 claims do call into question Defendant’s use of an ATDS. The Court is therefore convinced that the
14 definition of an ATDS will be a central issue in this case. Since the D.C. Circuit’s decision on these
15 questions will be binding on this Court, waiting for the decision in *ACA International* would
16 simplify the issues in this case significantly, and prevent the parties from litigating issues that may
17 later become moot.

18 Still, the Court must also consider the potential for prejudice to the Plaintiff. Here, the Court
19 finds that the potential for prejudice to Plaintiff is minimal. Oral arguments were held in *ACA*
20 *International* on October 19, 2016, so a decision is likely to come out in a matter of a few months.
21 Plaintiff does not articulate any harm that would result from such a stay, other than the harms
22 inherent to any delay. While the Court appreciates Plaintiff’s desire to proceed with her case,
23 litigants may be subject to delays that are “not immoderate in extent and not oppressive in [their]
24 consequences” in the interest of convenience or public welfare. *Landis*, at 256. The potential
25 duration of a stay in this case is modest, despite Plaintiff’s argument that the case will likely be
26 resolved only after an appeal to the Supreme Court, which could take more than a year. A stay in
27 this case would only apply for the duration of the appeal to the D.C. Circuit, any further appeal is
28

1 irrelevant to the instant motion. Given the lack of any particular harm to Plaintiff, the Court finds
2 that the benefits of a stay in this case outweigh the potential for prejudice.

3 IT IS THEREFORE ORDERED that Defendant's motion to stay (ECF No. 20) is
4 GRANTED. After the decision in *ACA International* is announced either party may request that the
5 stay be lifted.

6
7 DATED: June 8, 2017.

8
9
10 
11 C.W. Hoffman, Jr.
12 United States Magistrate Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28